

JAN 26 2009

A BILL FOR AN ACT

RELATING TO MOBILE BILLBOARDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to close a loophole
2 used to circumvent existing regulations governing outdoor
3 advertising, including the State's longstanding prohibition on
4 off-site commercial advertising, which has been in place for
5 more than seventy-five years. The loophole has emerged because
6 the current regulations are being interpreted to allow
7 commercial businesses to place temporary banners and other
8 advertising devices on vehicles and trailers, advertising that
9 would be prohibited if they were placed on fixed locations.
10 This Act will not prohibit a business from placing on its
11 vehicles any signs that refer to the function of the business,
12 products, or services offered by the business. The State has a
13 substantial interest in traffic safety and aesthetics, and
14 fulfilling the responsibility stated in article XI, section 1,
15 of the Constitution of the State of Hawaii, which provides that:
16 "For the benefit of the present and future generations, the



1 State and its political subdivisions shall conserve and protect
2 Hawaii's natural beauty and all natural resources . . ."

3 SECTION 2. Section 445-112.5, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending its title and subsection (a) to read:

6 "[~~†~~]~~§445-112.5~~[~~†~~] [~~Vehicular advertising~~] Mobile
7 billboards prohibited; penalty. (a) It is unlawful for any
8 person to operate or park, or cause to be operated or parked, on
9 any street, roadway, or other public place, or on any private
10 property that can be seen from any street, roadway, or other
11 public place, any vehicle or trailer carrying [~~a vehicular~~] or
12 displaying an advertising device for consideration or any other
13 economic benefit [~~if the vehicle or trailer is used primarily to~~
14 ~~display a vehicular advertising device. The phrase "for~~
15 ~~consideration or any other economic benefit" shall not include~~
16 ~~any benefit derived by the owner or operator of the vehicle or~~
17 ~~trailer from the effect of the advertising.] provided that this
18 prohibition shall not apply to vehicles or trailers that are
19 actively used in the daily function of the business to which the
20 advertising device relates."~~

21 2. By amending subsection (d) to read:

22 "(d) As used in this section:



1 "Trailer" means a vehicle or conveyance with or without
2 motive power designed to be pulled or propelled by a vehicle or
3 other form of power.

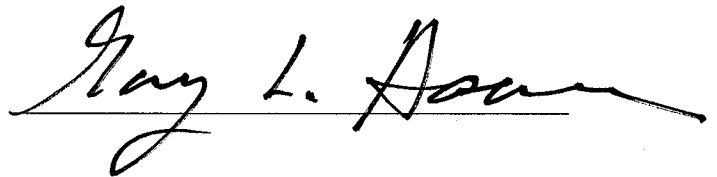
4 "[~~Vehicular advertising~~] Advertising device" means any
5 sign, writing, picture, poster, painting, notice, bill, model,
6 display, symbol, emblem, or similar device, which is so designed
7 that it draws the attention of persons in any public street,
8 roadway, or other public place."

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.

12

INTRODUCED BY:





Report Title:

Advertising; Mobile Billboards; Prohibition

Description:

Amends the restrictions on the use of mobile billboards and provides for penalties. Exempts businesses using advertising devices used in the daily function of the business.



February 12, 2009

The Honorable Senator Rosalyn Baker
And Committee Members
Committee on Commerce and Consumer Protection
Hawai'i State Capitol
Honolulu, HI 96813

RE: Support for SB1091 Relating to Mobile Billboards

Chair Baker, Vice Chair Ige and Members of the Committee:

Thank you for this opportunity to present testimony on SB1091 on behalf of Na Leo Pohai, the public policy affiliate of The Outdoor Circle.

This legislation will close a loophole left by the successful passage of the 2006 Vehicular Advertising law. The 2006 law supports the 82 year old ban on billboards in Hawai'i by prohibiting so-called billboard trucks from operating in our state.

However, the advertising industry has found another way to get around our laws. This time the issue involves Hawaii companies that sell space on their own vehicles to advertisers who, for a substantial fee, are allowed to place huge signs and banners on vehicles. These same signs would be illegal if they were posted almost anywhere else in our state such as on buildings, or along the roadside. But because the advertising is placed on vehicles that are not exclusively billboard trucks, there is no violation of the law.

Another, possibly even more alarming circumstance exists with mainland advertising companies who are paying owners of vehicle fleets in Hawaii to place large billboards on their vehicles. Again, because the vehicles are not primarily used for displaying advertising, the signs are not illegal and are being displayed as we speak on the roadways of our state.

Yet another form of vehicle advertising that has slipped through the cracks is advertising posted on vehicles and parked on the side of the road to attract customers. We see a lot of this on Oahu's North Shore—particularly with the shrimp truck industry. HB1417 would make these signs illegal unless the vehicle owner could prove that the vehicle is used as a regular part of the business being advertised.

To be clear, HB1417 would not infringe on the practice of businesses advertising their own companies or products on their own vehicles that are used to conduct their business. Frito-Lay, for example, would still be able to have a big bag of potato chips on the side of its trucks, but it could not also sell advertising space on its trucks to Pepsi.

We believe this simple change in Hawaii's law will reap statewide benefits by closing the loophole that enables some companies to skirt the laws designed to reduce billboards and other inappropriate advertising in our islands. It also helps level the playing field for the vast majority of business who understand that this type of advertising is a detriment to our state and the quality of life of our residents.

Hawai'i is a national leader in protecting the beauty of its state against the proliferation of commercial advertising. We are one of only four states that prohibits billboards—and has done so since the billboard ban was passed in 1927 by the Territorial Legislature. Our constitution requires that the fragile and invaluable beauty of our state be protected and this legislation will help fulfill that obligation while preventing our communities from further degradation by inappropriate advertising.

We urge you to pass this legislation, in the best interest of our people and our beautiful state.

Mary Steiner
CEO